

PAUL W. BUSBEY, MRS. PAUL W. BUSBEY, PAULA BUSBEY,  
AND MRS. LOUISA BUSBEY

DECEMBER 2 (legislative day, NOVEMBER 18), 1943.—Ordered to be printed

Mr. STEWART, from the Committee on Claims, submitted the following

## REPORT

[To accompany H. R. 1344]

The Committee on Claims, to whom was referred the bill (H. R. 1344) for the relief of Paul W. Busbey, Mrs. Paul W. Busbey, Paula Busbey, and Mrs. Louisa Busbey, having considered the same, report favorably thereon and recommend that the bill do pass with the following amendments:

Page 1, line 6, strike out the figures "\$2,298.13" and insert in lieu thereof the figures "\$1,798.13".

Page 1, line 8, strike out the figures "\$5,000" and insert in lieu thereof the figures "\$3,000".

Page 1, line 10, after the fourth word, insert the word "their" and, after the fifth word "claims", insert a comma and the following words: "including medical and hospital expenses".

The facts will be found fully set forth in House Report No. 415, Seventy-eighth Congress, first session, which is appended hereto and made a part of this report.

[H. Rept. No. 415, 78th Cong., 1st sess.]

The Committee on Claims, to whom was referred the bill (H. R. 1344) for the relief of Paul W. Busbey, Mrs. Paul W. Busbey, Paula Busbey, and Mrs. Louisa Busbey, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 6, strike out figures "\$3,768.13" and insert in lieu thereof figures "\$2,298.13".

Page 1, line 8, strike out figures "\$7,500" and insert in lieu thereof figures "\$5,000".

Page 1, line 9, after the figure "\$1,000" strike out period and insert comma and strike out the words "The payment of such sums shall be".

At end of bill strike out period and add: "": *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the

contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000."

The purpose of the proposed legislation is to pay to Paul W. Busbey the sum of \$2,298.13, to Mrs. Paul W. Busbey the sum of \$1,500, to Paula Busbey the sum of \$5,000, and to Mrs. Louisa Busbey the sum of \$1,000, in full settlement of all claims against the United States on account of personal injuries sustained by such persons, all of Wheeling, W. Va., on July 30, 1941, in a collision on United States Highway No. 17, Ways Station, Ga., between a United States Army truck and the automobile in which such persons were riding.

#### STATEMENT OF FACTS

On July 30, 1941, at about 4 p. m., an Army truck on official business, operated by a noncommissioned officer, was proceeding in an easterly direction on Georgia Route No. 63 at Ways Station, Ga., and approaching the intersection of that highway and United States Highway No. 17 at an undetermined rate of speed. At the same time a Buick sedan owned and operated by Paul W. Busbey, with Mrs. Paul W. Busbey, Paula L. Busbey (his daughter), Louisa Busbey (his mother), and Fae Daugherty as passengers, was proceeding in a northerly direction on United States Highway No. 17, also at an undetermined rate of speed, and approaching the same intersection. The weather was clear and the roads were dry. A "Stop" sign required that traffic on Georgia Route No. 63 stop before entering the intersection. It appears that when the Army driver attempted to apply his brakes to stop in obedience to the "Stop" sign, he found that the brake pedal was stuck; that he told another noncommissioned officer who was riding with him to apply the emergency brakes, and swung his vehicle to the right; that the Government driver was unable to complete the right turn at the speed at which his vehicle was traveling without crossing over the center line of United States Highway No. 17 into the north-bound lane of that highway; that Mr. Busbey, the civilian driver, upon observing the approach of the Army truck, endeavored to stop; that the civilian car skidded for a distance of about 44 feet; and that the vehicles then met in a head-on collision. When the brake pedal of the Army truck was examined after the accident, it was found to be still locked in the "off" position.

As a result of the accident the Buick sedan of Mr. Busbey was practically demolished and Mr. Busbey and the passengers in his car sustained injuries as follows:

Paul W. Busbey, age 37, received a severe contusion of his right lower chest and abdomen, severe contusion and haematoma of lower abdomen directly over the pubis. As a result his back continues to give him trouble. His hospital and medical expenses were \$798.13, and the bill as amended would reimburse him for this expense and give him \$1,500 for pain, suffering, and disability.

Mrs. Paul W. Busbey, age about 37, received a severe laceration of the left knee which entered the knee joint, multiple minor contusions and abrasions of the extremities and scalp. She has permanent scars, her knee continues to pain her and renders kneeling difficult, and she has been left very nervous, which occasions periodic hospitalization, as a result of her injuries. Her hospital and medical expenses are included in the \$1,500 proposed to be paid her under the bill. She is the same person as Irene Busbey, referred to in the medical evidence.

Paula Busbey, age 9, received multiple deep ribbonlike lacerations of the left cheek and lip, minor abrasions of the forehead and scalp. She is left with scars on the left side of her face, one 2 and one 3 inches long, and also other smaller scars at the left angle of the mouth, a one-half-inch scar under the chin, and one-half of the left central incisor tooth was broken off. These scars are described as permanent and unsightly. Her medical and hospital expense is included in the \$5,000 proposed to be paid her under the bill as amended.

Mrs. Louisa Busbey, age 65, received a fracture dislocation of the right wrist which entered the joint, contusions of the left knee and lower spine. Her medical and hospital expense is included in the \$1,500 proposed to be paid her under the bill.

The War Department admits the Government's liability, saying—

"Since it appears from the evidence of record that the accident resulted through no fault or negligence on the part of either the Government driver or the civilian driver, and that the injuries sustained by the claimants were caused by an instrumentality of the Government for which the Government should assume responsibility, the War Department, while not prepared to pass on the amounts that

should be awarded to the claimants, will interpose no objection to the enactment of legislation compensating them in such amounts as the Congress in its discretion may deem proper."

A full and complete report of an Army board of officers investigating the accident contains the statements of the claimants, driver of the Government truck, witnesses, and medical and hospital evidence, and is on file with your committee, but is considered too voluminous to incorporate in this report.

Your committee have carefully considered the entire matter, and feel that the claimants are entitled to be compensated in the amounts provided for in the bill as amended. The bill does not carry any appropriation for the loss of the civilian automobile, as the War Department had authority to, and did, pay Mr. Busbey therefor.

Your committee, therefore, recommend favorable consideration of the proposed legislation.

Appended hereto is the report of the War Department, and supplementary medical evidence filed subsequent to the filing of the report of the Army board of officers.

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WHEELING, W. VA., March 29, 1943.

*To Whom It May Concern:*

Mr. Paul Busby came into my office about the 7th of August 1941 with severe contusions of the chest and of the pelvis resulting in a hematoma of the pubic region. There were no fractured ribs revealed in the X-rays taken of his chest. He also suffered an injury to the back which has continued to give him trouble at the present time. These injuries were a result of an automobile accident on July 30, 1941, in the State of Georgia.

EDWARD M. PHILLIPS, M. D.  
WHEELING, W. VA., March 29, 1943.

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*To Whom It May Concern:*

Mrs. Irene Busby came into my office about the 7th of August 1941 with a laceration of the left knee continuing into the joint, cutting away a portion of the tibia. The scar which remains is U shaped; each side being about 2 inches long, and is very unsightly. She had many other small abrasions and contusions which are now healed. The knee still gives her considerable difficulty and pain upon kneeling. She has been very nervous as a result of the accident and it has been necessary for her to be confined to the Ohio Valley General Hospital upon two different occasions for a period of 2 weeks each time. These injuries were a result of an automobile accident on July 30, 1941, in the State of Georgia.

EDWARD M. PHILLIPS, M. D.

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WHEELING, W. VA., March 29, 1943.

*To Whom It May Concern:*

Miss Paula Busby came into my office about the 7th of August 1941, with scars of lacerations on the left side of the face; one 2 inches long and one 3 inches long. Both these scars are very unsightly. She also has several smaller scars about the face; two small scars at the left angle of the mouth, a one-half-inch scar under the chin, and one-half of the left central incisor tooth was broken off. These are a result of an automobile accident on July 30, 1941, in the State of Georgia.

EDWARD M. PHILLIPS, M. D.

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WHEELING, W. VA., March 29, 1943.

*To Whom It May Concern:*

Mrs. Louisa Busby came into my office about the 7th day of August 1941, suffering with a colles fracture of the right arm and contusions and abrasions of both knees as a result of an automobile accident on July 30, 1941, in the State of Georgia.

The bone of her arm was in very bad position and necessitated her being confined in the Ohio Valley General Hospital, where an anaesthetic was administered and the bone was reduced with the use of the fluoroscope. A skin-tight cast was

applied. For 4 months, after the cast was removed, massage and passive motion were necessary. She still has some stiffness of both her right wrist and her knees.

EDWARD M. PHILLIPS, M. D.

WHEELING, W. VA., February 12, 1943.

*To Whom It May Concern:*

An X-ray examination of Mr. Paul Busby on November 11, 1942, revealed the following spinal condition:

The lumbar vertebrae are in a right rotatory scoliosis. The right ilium is inferior and anterior in its relationship to the sacrum. There is a cord pressure existing between the occiput and atlas and between the odontoid of the axis vertebra and the posterior ring of the atlas. There is a left rotation of the axis and a slight kyphosis of all the cervical vertebrae.

In my opinion, the abnormal condition in the cervical region has been caused by a blow on the head, and the lumbar pelvic abnormality also due to trauma.

Mr. Busbey placed himself under my care on November 11 to December 28, 1942; at which time he discontinued treatment contrary to my advice. On February 1, 1943, he returned to my office again for treatment and is continuing under my care at the present time.

I remain,

Professionally yours,

K. A. ROSENBERG, D. C.

Taken, subscribed, and sworn to before me this the 4th day of March 1943.

ALONZO WATSON, *Notary Public.*

My commission expires December 16, 1946.

WAR DEPARTMENT,  
Washington, March 6, 1943.

Hon. DAN R. MCGEHEE,

*Chairman, Committee on Claims,*

*House of Representatives, Washington, D. C.*

DEAR MR. MCGEHEE: The War Department will interpose no objection to the enactment of H. R. 1344, Seventy-eighth Congress, first session, which would compensate Paul W. Busbey, Mrs. Paul W. Busbey, Paula Busbey, and Mrs. Louisa Busbey, all of Wheeling, W. Va., for personal injuries sustained by them on July 30, 1941, in a collision on United States Highway No. 17, Ways Station, Ga., between a United States Army truck and the automobile in which such persons were riding.

On July 30, 1941, at about 4 p. m., an Army truck on official business, operated by a noncommissioned officer, was proceeding in an easterly direction on Georgia Route No. 63 at Ways Station, Ga., and approaching the intersection of that highway and United States Highway No. 17 at an undetermined rate of speed. At the same time a Buick sedan owned and operated by Paul W. Busbey, 5 North Huron Street, Wheeling, W. Va., with Mrs. Paul W. (Irene B.) Busbey (his wife), Miss Paula L. Busbey (daughter), Anna Lou Busbey (daughter), Louisa M. Busbey (mother), and Miss Fae Daugherty as passengers was proceeding in a northerly direction on United States Highway No. 17, also at an undetermined rate of speed, and approaching the same intersection. The weather was clear and the roads were dry. A "Stop" sign required that traffic on Georgia Route No. 63 stop before entering the intersection. It appears that when the Army driver attempted to apply his brakes to stop in obedience to the "Stop" sign, he found that the brake pedal was stuck; that he told another noncommissioned officer who was riding with him to apply the emergency brakes, and swung his vehicle to the right; that the Government driver was unable to complete the right turn at the speed at which his vehicle was traveling without crossing over the center line of United States Highway No. 17 into the north-bound lane of that highway; that Mr. Busbey, the civilian driver, upon observing the approach of the Army truck, endeavored to stop; that the civilian car skidded for a distance of about 44 feet; and that the vehicles then met in a head-on collision. When the brake pedal of the Army truck was examined after the accident, it was found to be still locked in the "off" position.



As a result of the accident the Buick sedan of Mr. Busbey was practically demolished and Mr. Busbey and the passengers in his car sustained injuries the nature and extent of which are set forth in detail on pages 32 and 33, exhibit C, of the report of a board of officers that investigated the case, a copy of which report is enclosed herewith for the information of the committee.

A claim was filed with the War Department by Paul W. Busbey in the amount of \$1,267.50 for the damage to his car, and upon review was approved in the amount of \$970 for settlement under the provisions of the act of August 24, 1912 (27 Stat. 586). It was the view of the Department that the accident was unavoidable because of the mechanical failure of the brakes of the Government vehicle. It appears that both vehicles were traveling at a lawful speed and that both drivers tried to avert the collision.

No formal claim appears to have been filed with the War Department for the personal injuries resulting from this accident. However, in a letter dated September 15, 1941, from Paul W. Busbey to Capt. James C. Dryer, Jr., president, board of officers, Two Hundred and Ninth Coast Artillery (Antiaircraft), Camp Stewart, Ga. (exhibit G of the enclosed board report), are itemized the medical and hospital expenses incurred to that date. Exhibit E of the board report contains a summary of expenditures to and including September 15, 1941, amounting in all to \$593.11.

Since it appears from the evidence of record that the accident resulted through no fault or negligence on the part of either the Government driver or the civilian driver, and that the injuries sustained by the claimants were caused by an instrumentality of the Government for which the Government should assume responsibility, the War Department, while not prepared to pass on the amounts that should be awarded to the claimants, will interpose no objection to the enactment of legislation compensating them in such amounts as the Congress in its discretion may deem proper.

The Bureau of the Budget advises that there is no objection to the enactment of legislation for the relief of the respective claimants in amounts commensurate with their injuries. It would appear, however, from the report of the board of officers who investigated this accident, that the payments proposed by the bill are grossly excessive.

Sincerely yours,

HENRY L. STIMSON, *Secretary of War.*

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